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No.: ICC-02/04
Date: 06 February 2008

PRE-TRIAL CHAMBER II

Before: Judge Mauro Politi, Presiding Judge
Judge Fatoumata Dembele Diarra
Judge Ekaterina Trendafilova

Registrar: Mr Bruno Cathala

SITUATION IN UGANDA

Public Document

Request for leave to file observations in relation to the " Notification of the Board of Directors of the Trust Fund for Victims in accordance with Regulations 50 of the Regulations of the Trust Fund for Victims with Confidential annex"

The Office of the Prosecutor
Mr Luis Moreno Ocampo
Ms Fatou Bensouda
Mr Eric MacDonald

**Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keita
Office of Public Counsel for Victims
Ms Paolina Massida

1. On 28 January 2008, the Board of Directors filed a notification to the Pre-Trial Chamber concerning their intention to undertake specific activities in the territory of Northern Uganda (the Trust Fund Notification).¹
2. In this connection, Regulation 50 of the Regulations of the Trust Fund provides that the Trust Fund may seize itself of activities for the benefit of victims if “the relevant Chamber of the Court has responded and has not, within a period of 45 days of receiving such notification, informed the Board in writing that a specified activity or project, pursuant to rule 98, sub-rule 5 of the Rules of Procedure and Evidence, would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial”.
3. The Office of Public Counsel for the Defence (OPCD) respectfully submits that it would be in the interests of justice to render such a decision after considering observations from the parties in relation to the impact of the proposed activities on the predetermination of any issues before the Court, the fairness and impartiality of the proceedings, and the rights of the Defence.
4. Receiving submissions from the parties would also be consistent with regulation 24(1) of the Regulations of the Court, which provides that the Prosecutor and the Defence may file a response to any document filed by any participate in the case.
5. The OPCD observes that the Trust Fund Notification has been filed in the Uganda situation file as opposed to a specific case, and as such, there is no duly constituted Defence team which is entitled to respond.
6. In this regard, Regulation 77(4) of the Regulations of the Court provides that the tasks of the OPCD include representing and protecting the rights of the Defence during the initial stages of the investigation.

¹ Notification of the Board of Directors of the Trust Fund for Victims in accordance with Regulation 50 of the Regulations of the Trust Fund for Victims with Confidential Annex, ICC-02/04-114

7. The OPCD therefore submits that filing observations on the impact of the activities proposed by the Trust Fund, in particular as concerns the fairness and impartiality of the proceedings and the rights of the Defence, would be consistent with the above-mentioned mandate of the OPCD.

Relief Sought

8. The OPCD respectfully requests the authorization of the Honourable Pre-Trial Chamber to file observations concerning whether the activities proposed by the Trust Fund would pre-determine any issue to be determined by the Court, including the determination of jurisdiction pursuant to article 19, admissibility pursuant to articles 17 and 18, or violate the presumption of innocence pursuant to article 66, or be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.



Mr Xavier-Jean Keïta
Principal Counsel of OPCD

Dated this Wednesday, the 6th of February 2008

At The Hague, The Netherlands